IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:	Atty. Docket No.: 007287.00020
Yakov Kamen *et al.*	
Serial No.: 09/691,792	Group Art Unit: 2421
Filed: October 18, 2000	Examiner: Dominic D. Saltarelli
For: METHOD AND SYSTEM FOR ADAPTIVE ELECTRONIC PROGRAMMING GUIDE	Confirmation No.: 5769

APPEAL BRIEF

U.S. Patent and Trademark Office
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Sir:

This is an Appeal Brief filed in support of Appellants' September 11, 2009, Notice of Appeal. Appeal is taken from the Final Office Action mailed June 19, 2009 (hereafter, "Final Office Action"), the Advisory Action ("Advisory Action") mailed September 2, 2009, and the Notice of Panel Decision from the Pre-Appeal Brief mailed on November 2, 2009.

Please charge any fees to our Deposit Account No. 19-0733. In addition, any extensions of time necessary for acceptance or entry of this paper are hereby requested.

REAL PARTY IN INTEREST
37 C.F.R. § 41.37(c)(1)(i)

The owner of this application, and the real party in interest, is JLB Ventures LLC.

RELATED APPEALS AND INTERFERENCES
37 C.F.R. § 41.37(c)(1)(ii)

There are no related appeals or interferences.

STATUS OF CLAIMS
37 C.F.R. § 41.37(c)(1)(iii)

Claims 10-22 are rejected and presently appealed.

Claims 1-9 have been cancelled

STATUS OF AMENDMENTS
37 C.F.R. § 41.37(c)(1)(iv)

No amendments have been made subsequent to final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER
37 C.F.R. § 41.37(c)(1)(v)

In making reference herein to various embodiments in the specification text and/or drawings to explain the claimed invention, Appellants do not intend to limit the claims to those embodiments; all references to the specification and drawings are illustrative unless otherwise explicitly stated. Appellants refer to the originally filed Specification dated October 18, 2000 ("Specification"), for the cited support.

Specific support for the features of the independent claims is identified below:

Independent claim 10 relates to a method comprising receiving, at a broadcast receiving device, electronic programming guide data from a broadcast source. (pg. 2, ll. 17-26; pg. 12, ll. 1-2). The method further includes receiving, at the broadcast receiving device, a user request to modify an electronic programming guide configured to display the electronic programming guide data. (pg. 11, ll. 3-7; pg. 12, ll. 7-10; Fig. 1). The method comprises receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested

modification from the broadcast source. (pg. 12, ll. 11-17; Fig. 1). The method comprises determining, at the broadcast receiving device, at least one of the one or more presentation criteria corresponds to the user request. (pg. 12, ll. 14-16). Additionally, the method comprises in response to determining that at least one of the one or more presentation criteria corresponds to the user request, modifying the electronic programming guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request and temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide. (pg. 12, l. 7- pg. 13, l. 11).

Independent claim 14 is directed to one or more computer readable media storing computer readable instructions that, when executed, cause a processor to perform a method comprising receiving electronic programming guide data from a broadcast source. (pg. 2, ll. 17-26; pg. 12, ll. 1-2). The method further comprises receiving a user request to modify an electronic programming guide configured to display the electronic programming guide data. (pg. 11, ll. 3-7; pg. 12, ll. 7-10; Fig. 1). The method comprises receiving, from the broadcast source, one or more presentation criteria for making the user requested modification. (pg. 12, ll. 11-17; Fig. 1). The method comprises determining at least one of the one or more presentation criteria corresponds to the user request. (pg. 12, ll. 14-16). Additionally, the method comprises in response to determining that at least one of the one or more presentation criteria corresponds to the user request, modifying the electronic programming guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request and temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide. (pg. 12, l. 7- pg. 13, l. 11).

Independent claim 18 is directed to an apparatus comprising a processor. (pg. 11, ll. 11-13). The apparatus further comprises memory configured to store computer readable instructions that, when executed by the processor, cause the processor to perform a method comprising receiving electronic programming guide data from a broadcast source. (pg. 11, ll. 14-15; pg. 2, ll. 17-26; pg. 12, ll. 1-2). The method further comprises receiving a user request to modify an electronic programming guide configured to display the electronic programming guide data. (pg.

11, ll. 3-7; pg. 12, ll. 7-10; Fig. 1). The method comprises receiving, from the broadcast source, one or more presentation criteria for making the user requested modification. (pg. 12, ll. 11-17; Fig. 1). The method comprises determining at least one of the one or more presentation criteria corresponds to the user request. (pg. 12, ll. 14-16). Additionally, the method comprises in response to determining that at least one of the one or more presentation criteria corresponds to the user request, modifying the electronic programming guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request and temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide. (pg. 12, l. 7-pg. 13, l. 11).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
37 C.F.R. § 41.37(c)(1)(vi)

Claims 10-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,798,785 to Hendricks (hereinafter "Hendricks") in view U.S. Patent No. 5,793,368 to Beer (hereinafter "Beer").

ARGUMENT
37 C.F.R. § 41.37(c)(1)(vii)

1. The cited references fail to teach or suggest all of the features of independent claims 10, 14, and 18.

Independent claim 10 recites, among other features,

> receiving, at the broadcast receiving device, a user request to modify an electronic programming guide configured to display the electronic programming guide data;
> receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the broadcast source; and
> determining, at the broadcast receiving device, at least one of the one or more presentation criteria corresponds to the user request.

The Final Office Action alleges that the combination of Hendricks and Beer discloses all of the features of independent claim 10. Appellants respectfully disagree. The Final Office Action alleges that Beer teaches the claimed steps of receiving, at the broadcast receiving device,

a user request to modify an electronic programming guide and determining, at the broadcast receiving device, at least one of the one or more presentation criteria corresponds to the user request. Final Office Action, page 4. Specifically, the Final Office Action states that Beer describes "user requests for presentation criteria are a user request for a particular visual style or characteristic." *Id.*

Notably, claim 10 recites, "receiving, at the broadcast receiving device, *a user request to modify an electronic programming guide*," and "receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the *broadcast source*." Nowhere does claim 10 recite "user requests for presentation criteria," as the Final Office Action suggests.

Furthermore, even assuming, without conceding, that the processor in Beer corresponds to the claimed broadcast receiving device, at most, Beer discloses a user being able to select from a variety of different visual styles for a user interface on a processor or application on a processor, by adding, deleting, and changing attributes for widgets or objects associated with the user interface. *See*, Beer, col. 3, lines 16-17. Determining whether a user selects a visual style for a user interface clearly does not constitute *determining at the broadcast receiving device,* at least one or more presentation criteria corresponds to the user request, as recited in claim 10.

The Advisory Action alleges that a determining step is one which interprets the user input in order to act upon it. *See* Advisory Action, page 3. The Advisory Action further alleges that "[s]ince the user input is selection criteria, a matching process is carried out which identifies which presentation criteria was selected, if any." *Id.* Even assuming without conceding that Beer discloses a matching process, which is carried out when a user requests presentation criteria, as alleged in the Advisory Action, nowhere in Beer is there a teaching or a suggestion that the matching process occurs *at the broadcast receiving device.* Accordingly, Beer fails to teach or suggest the determining step as claimed.

Hendricks fails to cure the deficiencies of Beer. The Final Office Action concedes that Hendricks fails to disclose receiving a user request to modify an electronic programming guide configured to display the electronic programming guide data. Accordingly, it then follows that, Hendricks can not *determine*, at the broadcast receiving device, at least one or more of the presentation criteria *corresponds to the user request*, as recited in claim 10. Therefore, claim 10

is patentably distinct over Hendricks in view of Beer and isthus allowable for at least these reasons.

Independent claims 14 and 18 recite language substantially similar to claim 10 and are thus allowable for substantially similar reasons as those discussed above with respect to claim 10.

2. *Dependent Claims 11-13, 15-17, and 19-22*

Claims 11-13 depend from independent claim 10 and are allowable for at least the same reasons as discussed above with respect to claim 10.

Claims 15-17 depend from claim 14 and are allowable for at least the same reasons as discussed above with respect to claim 14.

Claims 19-22 depend from claim 18 and are allowable for at least the same reasons as discussed above with respect to claim 18.

CONCLUSION

For all of the foregoing reasons, Appellants respectfully submit that the final rejection of claims 10-22 is improper and should be reversed.

Respectfully submitted,

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CLAIMS APPENDIX
37 C.F.R. § 41.37(c)(1)(viii)

Claims involved in the appeal:

Claim 10: (Previously Presented)   A method comprising:

receiving, at a broadcast receiving device, electronic programming guide data from a broadcast source;

receiving, at the broadcast receiving device, a user request to modify an electronic programming guide configured to display the electronic programming guide data;

receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the broadcast source;

determining, at the broadcast receiving device, at least one of the one or more presentation criteria corresponds to the user request; and

in response to determining that at least one of the one or more presentation criteria corresponds to the user request, modifying the electronic programming guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request and temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide.

Claim 11: (Previously Presented)   The method of claim 10, wherein the modification request includes a selection of a predefined display layout from a database storing a plurality of predefined display layouts.

Claim 12: (Previously Presented)   The method of claim 10, wherein the broadcast receiving device comprises a set-top box.

Claim 13: (Previously Presented)   The method of claim 10, wherein the electronic programming guide comprises a three-dimensionally arranged set of surfaces textured by pre-processed broadcast program scheduling data.

Claim 14: (Previously Presented)   One or more computer readable media storing computer readable instructions that, when executed, cause a processor to perform a method comprising:

receiving electronic programming guide data from a broadcast source;

receiving a user request to modify an electronic programming guide configured to display the electronic programming guide data;

receiving, from the broadcast source, one or more presentation criteria for making the user requested modification;

determining at least one of the one or more presentation criteria corresponds to the user request; and

in response to determining that at least one of the one or more presentation criteria corresponds to the user request, modifying the electronic programming guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request and temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide.

Claim 15: (Previously Presented)   The one or more computer readable media of claim 14, wherein the user requested change corresponds to a selection of a predefined display layout from a database storing a plurality of predefined display layouts.

Claim 16: (Previously Presented)   The one or more computer readable media of claim 14, wherein the user request includes a change in a position of at least a portion of the electronic programming guide.

Claim 17: (Previously Presented)   The one or more computer readable media of claim 14, wherein receiving a user request includes detection of a sound or a gesture.

Claim 18: (Previously Presented)   An apparatus comprising:

a processor; and

memory configured to store computer readable instructions that, when executed by the processor, cause the processor to perform a method comprising:

receiving electronic programming guide data from a broadcast source;

receiving a user request to modify an electronic programming guide configured to display the electronic programming guide data;

receiving, from the broadcast source, one or more presentation criteria for making the user requested modification;

determining at least one of the one or more presentation criteria corresponds to the user request; and

in response to determining that at least one of the one or more presentation criteria corresponds to the user request, modifying the electronic programming guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request and temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide.

Claim 19: (Previously Presented)   The apparatus of claim 18, wherein the user requested change corresponds to a selection of a predefined display layout from a database storing a plurality of predefined display layouts.

Claim 20: (Previously Presented)   The apparatus of claim 18, wherein the user request includes a change in a position of at least a portion of the electronic programming guide.

Claim 21: (Previously Presented)   The apparatus of claim 18, wherein receiving a user request includes detection of a sound or a gesture.

Claim 22: (Previously Presented)   The apparatus of claim 18, wherein the user request includes rearranging the position of at least a portion of the electronic programming guide data within the electronic programming guide.

EVIDENCE APPENDIX
37 C.F.R. § 41.37(c)(1)(ix)

NONE.

RELATED PROCEEDINGS APPENDIX
37 C.F.R. § 41.37(c)(1)(x)

NONE.